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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,279	12/06/2001	Robert M. Ransom	WEC-104-A	5519

7590 10/18/2004

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EXAMINER
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CANFIELD, ROBERT

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 10/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/025,279

Applicant(s)

RANSOM ET AL.

Examiner

Robert J Canfield

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06/17/04.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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1. This Office action is in response to the amendment filed 06/17/04. Claims 1-11 are pending.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1, 4 and 8 are rejected under 35 U.S.C. 102(e) as being a by U.S. Patent 6,390,110 to Brown.

Brown provides a portable enclosure having a frame 20, an enclosure exterior surface 21, and a non-self supporting covering 22 removably disposable over the exterior surface 21. The covering has a first visible camouflage pattern on a first outer surface and inherently has a second opposing surface. The covering 22 is

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draped over the frame and held in place by conventional means (column 4, lines 28-34). As covering 22 is draped over the frame it is considered to closely conform to the shape of the enclosure so as to surround and cover substantially all of the enclosure exterior surface 21.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,390,110 to Brown.

Brown provides a portable enclosure having a frame 20, an enclosure exterior surface 21, and a non-self supporting covering 22 removably disposable over the exterior surface 21. The covering has a first visible camouflage pattern on a first outer surface and inherently has a second opposing surface. The covering 22 is draped over the frame and held in place by conventional means (column 4, lines 28-34). As covering 22 is draped over the frame it is considered to closely conform to the shape of the enclosure so as to surround and cover substantially all of the enclosure exterior surface 21.

Brown fails to provide that the enclosure exterior surface 21 bears a first camouflage pattern.

The examiner takes Official Notice that it would have been an obvious choice of design at the time of the invention to one having ordinary skill in the art to have provided a camouflaged pattern on the exterior surface 21. It is well known as demonstrated throughout the art of record to provide camouflage patterns on the exterior surfaces of tents such that the tent may blend into its surroundings. It would have been obvious that the inner surface 21 bear a camouflage pattern so that the tent would blend into its surroundings when the covering 22 is removed.

6. Claims 2, 5, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,390,110 to Brown in view of U.S. Patent 6,010,176 to Jones.

Brown provides each of the elements of the claims as noted in the above rejections except that the covering 22 is reversible with a further camouflage pattern on an opposing side.

Jones teaches that at the time of the invention it was known to provide a removable covering 10 that is reversible with different camouflaged patterns on opposing sides.

It would have been obvious at the time of the invention to one having ordinary skill in the art in view of the teachings of Jones that the covering 22 of Brown could have been provided with a camouflage pattern on a second side opposing the first camouflage pattern such that the appearance of the tent may

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be readily changed when used in a second environment without the need for a second covering (Column 3, lines 30-35 Jones)

7. Claim 3 is rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over U.S. Patent 6,390,110 to Brown.

Brown provides each of the elements of the claim as noted above. It is the examiner's position that the exterior surface 21 must inherently bear a first visible pattern as the material of the liner 21 inherently has a texture and a color.

If applicant wishes to argue that the exterior surface 21 does not have a first visible pattern then the examiner takes Official Notice that it would have been an obvious choice of design at the time of the invention to one having ordinary skill in the art to have provided a camouflaged pattern on the exterior surface 21. It is well known as demonstrated throughout the art of record to provide camouflage patterns on the exterior surfaces of tents such that the tent may blend into its surroundings. It would have been obvious that the inner surface 21 bear a camouflage pattern so that the tent would blend into its surroundings when the covering 22 is removed.

8. Claims 2, 5-7 and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,137,044 to Brady in view of U.S. Patent 6,010,176 to Jones.

Brady provides a self-erecting portable enclosure 20 having a collapsible frame 40, an enclosure exterior surface formed as a plurality of connected wall panel elements 22a, 24 and 26 forming a perimeter of the enclosure 20, and a non-self-supporting covering 22b draped over the frame 40 to inherently closely conform to the shape of the enclosure so as to surround and cover substantially all of the enclosure 20 exterior surface 22a, 24, 26.

Brady fails to provide that the enclosure exterior surface 22a, 24, 26 bears a first camouflage pattern (claim 9).

The examiner takes Official Notice that it would have been an obvious choice of design at the time of the invention to one having ordinary skill in the art to have provided a camouflaged pattern on the exterior surface. It is well known as demonstrated throughout the art of record to provide camouflage patterns on the exterior surfaces of tents such that the tent may blend into its surroundings. It would have been obvious that the inner surface 21 bear a camouflage pattern so that the tent would blend into its surroundings when the covering 22 is removed.

Brady fails to provide that the covering 22b is reversible with a further camouflage pattern on an opposing side.

Jones teaches that at the time of the invention it was known to provide a removable covering 10 that is reversible with different camouflaged patterns on opposing sides.

It would have been obvious at the time of the invention to one having ordinary skill in the art in view of the teachings of Jones that the covering 22b of Brady could have been provided with a camouflage pattern on first and second opposing sides such that the appearance of the tent may be readily changed when used in first and second environments without the need for two separate coverings (Column 3, lines 30-35 Jones).

9. Claims 1, 3, 5, and 6 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over U.S. Patent 5,137,044 to Brady.

Brady provides a self-erecting portable enclosure 20 having a collapsible frame 40, an enclosure exterior surface formed as a plurality of connected wall panel elements 22a, 24 and 26 forming a perimeter of the enclosure 20, and a non-self-supporting covering 22b draped over the frame 40 to inherently closely conform to the shape of the enclosure so as to surround and cover substantially all of the enclosure 20 exterior surface 22a, 24, 26.

It is the examiner's position that the exterior surface 22a, 24, 26 as well as the opposing surfaces of the covering 22b each must inherently bear a visible pattern as the materials of the enclosure and covering inherently have a texture and a color. Note that the claims do not require that the first second and third visible patterns are different.

If applicant wishes to argue that the exterior surface 22a, 24, 26 and opposing surfaces of the covering 22b do not have visible patterns, then the



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examiner takes Official Notice that it would have been an obvious choice of design at the time of the invention to one having ordinary skill in the art to have provided visible patterns as a choice of design for aesthetic reasons. It is well known that tent and covering may be provided with various color schemes as a matter of design choice.

10. Applicant's arguments with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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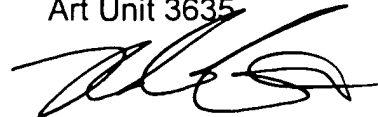
the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J Canfield whose telephone number is 703-308-2482. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 703-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Robert J. Canfield  
Primary Examiner  
Art Unit 3635



10/14/04